

WIZZOO Limited

Website Design & Service Agreement



This Agreement is made with an effective date of Friday, 2nd September 2011 between:

WIZZOO Limited, company number **6386593**, whose registered address is:
8, Princess Street, Bollington, Macclesfield, Cheshire, SK10 5HZ.

and

[CLIENT NAME] (the "Client"), company number **[COMPANY NUMBER]** whose registered address is:

[COMPANY ADDRESS]

Website Information

Present URL/s (If Applicable):

New / Requested Domain Name/s:
(If Available)

Definition of Terms

- (a) "The Client" means any person, company, partnership, organisation or body at whose application, WIZZOO Limited agrees to provide the products and / or services under the terms of the agreement.
- (b) "WIZZOO Limited" is the primary service provider.
- (c) "The Agreement" means the contract between WIZZOO Limited and the Client to which these conditions will apply.
- (d) "Order" is the request by the Client for products and / or services in the agreement. It is deemed to be a written or verbal contract between WIZZOO Limited and the Client; this includes telephone and email agreements.
- (e) "Deliverables" are the outputs of services to be supplied under the agreement and shall include but are not limited to, all software and written material, including programs, tapes, listings and other programming documentation.

Authorization

The named Client is engaging WIZZOO Limited, as an independent contractor for the specific purpose of designing a website and providing the agreed internet services.

The Client hereby authorizes WIZZOO Limited "full access" to any and all Client accounts in relation to the transfer of domain names and internet services for the purposes of providing the agreed services.

WIZZOO Limited will carry out work only where an agreement is provided either by person, email, telephone, mail or fax.

WIZZOO Limited will carry out work only for Clients who are 18 years of age or above.

Web Design, Domain Names & Internet Services

Domain names will be registered and / or administered on behalf of the Client by WIZZOO Limited. The legal ownership of the domain names will remain with the Client.

WIZZOO Limited cannot guarantee the availability of any specific domain names.

Whilst every endeavour will be made to ensure that the website and any scripts or programs are free of errors, WIZZOO Limited cannot accept responsibility for any losses incurred due to malfunction of the website or any part of it.

The website, graphics and any programming code remain the property of WIZZOO Limited.

Any additions to the brief will be carried out at the discretion of WIZZOO Limited and where no charge is made by WIZZOO Limited for such additions, WIZZOO Limited accept no responsibility to ensure such additions are error free and reserve the right to charge an according amount for any correction to these or further additions.

WIZZOO Limited will not be liable for costs incurred, compensation or loss of earnings due to the failure to meet agreed deadlines.

WIZZOO Limited will not be liable or become involved in any disputes between the site owner and their Clients and cannot be held responsible for any wrongdoing on the part of a site owner.

WIZZOO Limited will not be liable for any costs incurred, compensation or loss of earnings due to the work carried out on behalf of the Client or any of the Clients appointed agents.

WIZZOO Limited will not be liable for any costs incurred, compensation or loss of earnings due to the unavailability of the site, its servers, software or any material provided by its agents.

Whilst WIZZOO Limited provides hosting facilities to host websites and e-mail, no guarantees can be made as to the availability or interruption of this service. WIZZOO Limited cannot accept liability for losses caused by the unavailability, malfunction or interruption of this service, or for loss of turnover, sales, revenue, profits or indirect, consequential or special loss.

This agreement allows for minor web site maintenance to pages over the duration WIZZOO Limited is hosting the web site on its servers, up to an average of one half hour per regular web site, including updating lines and making minor changes to a sentence or paragraph. It does not include updating or replacing nearly all the text from a page with new text, major page reconstruction, new pages, guest books, discussion webs, navigation structure changes or repairs from attempted updates by the Client. If the Client's web design package includes database access using Server Side Script, then very minor page code changes will be accepted under this maintenance plan. Major page code and/or database structural changes will be charged at current hourly rates of £40 per hour.

WIZZOO Limited and the Client must work together to complete the web design project in a timely manner, in accordance with the project plan agreed. We agree to work expeditiously to complete the web design project after the Client has submitted all necessary materials. If the Client does not supply WIZZOO Limited with complete text and graphic content for this web design project within 60 days of the date this agreement was signed, the entire amount of the agreement becomes due and payable. If the Client still has not submitted all the required contents within 90 days after signing this agreement, an additional continuation fee of 15% of the total agreement price will be assessed for each month until the web design project is published or the Client cancels the web design project in writing.

The web site design project delivery shall be completed upon receipt of the payment associated with delivery. Delivery may be accomplished by publishing, electronic transfer, or physical media.

The Client understands that WIZZOO Limited will provide domain name and hosting services in connection with this web design project. The Client understands that they are charged for the hosting services and domain name subscriptions on a renewal basis every year / yearly subscription fee. The Client will be solely responsible for all hosting services and domain name fees.

WIZZOO Limited reserves the right to include a discrete 'logo' link back to www.wizzoo.com from the Client's website.

Material

All material supplied by the Client shall remain the Client's property. It will be assumed that this material belongs to the Client and that it does not breach any copyright laws.

WIZZOO Limited cannot take responsibility for any copyright infringements caused by materials submitted by the Client. We reserve the right to refuse any material of a copyrighted nature unless adequate proof is given of permission to use such material.

WIZZOO Limited reserve the right to refuse to handle in any way, material which may be deemed offensive, illegal or in any way controversial, and also to terminate the hosting service should the necessity arise.

The Client unconditionally guarantees that any elements of text, graphics, photos, designs, trademarks, or other artwork furnished to WIZZOO Limited for inclusion in the web design project are owned by the Client, or that the Client has permission from the rightful owner to use each of these elements, and will hold harmless, protect and defend WIZZOO Limited and its subcontractors from any claim or suit arising from the use of such elements furnished by the Client.

Database, Application and E-Commerce Development

WIZZOO Limited cannot take responsibility for any losses incurred by the use of any software created for the Client. Whilst every care has been taken to ensure products are problem free and accurate, the ultimate responsibility lies with the Client in ensuring that all software is functioning correctly before use.

Any scripts, php scripts, cgi applications or software (unless specifically agreed) written by WIZZOO Limited remain the copyright of WIZZOO Limited and may only be commercially reproduced or resold with the permission of WIZZOO Limited.

The Client is expected to test fully any application or programming relating to a site developed by WIZZOO Limited before being made generally available for use. Where "bugs", errors or other issues are found after the site is live, WIZZOO Limited will endeavour (but is not obliged to) to correct these issues to meet the standards of function outlined in the brief.

WIZZOO Limited are not responsible for actions resulting from unauthorised hacking into any web site or online database created by us, or from the misuse of any content management system provided by us.

WIZZOO Limited will endeavour to ensure that any developed / designed site or application will function correctly on the server it is initially installed in and that it will function correctly when viewed with the latest versions of the web browsing software Microsoft Internet Explorer, Google Chrome and Apple Safari. WIZZOO Limited can offer no guarantees of correct function with all browser software.

Payment of Accounts

It is the policy of WIZZOO Limited that any outstanding accounts for work carried out by WIZZOO Limited or its affiliates are required to be paid in full, no later than 30 days from the date of the invoice unless by prior arrangement with WIZZOO Limited. If after 30 days the account has still not been settled, a final reminder will be sent out to the Client.

Accounts that have not been settled within 7 days of our final reminder will incur a late payment charge of 10% of the amount outstanding. You will also be charged statutory interest of 8% above the reference rate (fixed for the six month period within which date the invoices became overdue) pursuant to the late payment legislation.

Once a website has been designed and completed the final balance of payment is then due in accordance with our payment terms. There are no exceptions to this, i.e. if the Client decides they no longer want the site, as they have commissioned the work and signed an agreement stating that they agree to these terms & conditions, they are still obliged to pay for the work that has been done. Non-payment will result in legal action being taken if necessary.

A cancellation fee will be charged if the Client wishes to cancel the contract prior to completion. This fee will be equivalent to the amount of work completed at that point.

The price quoted to the Client is for the work agreed on the quotation only. Should the Client decide that changes are required, as the site is developed, the cost of any additional work will be added to the price quoted and this will appear on the final invoice.

The Client will be asked to approve site plan, navigation, content and design at agreed stages. If, after such approval, the Client makes any changes to the website that affects the navigation of the site, the design or layout of individual pages WIZZOO Limited reserves the right to charge our time at the rate of £40 per hour.

Following consistent non-payment of an invoice our solicitors will contact the Client in question, with a view to taking the matter further and if need be to seek payment through legal procedures, and if necessary court summons.

Hosting services and domain names provided by WIZZOO Limited are charged on an on-going yearly subscription basis. When a Client's current hosting service or domain name subscription is due to end, WIZZOO Limited will send out an invoice charging the Client for the following year's hosting and domain name services. This invoice will be sent to the Client at least 30 days before the current hosting or domain name subscription is due to run out. The Client then has 30 days to settle this invoice in full.

If accounts are not settled within this 30 day period, Clients will receive a final reminder of the payment due. Accounts that have not been settled within 7 days of our final reminder incur a late payment charge of 10% of the amount outstanding. The Client will also be charged a statutory interest of 8% above the reference rate (fixed for the six month period within which date the invoices became overdue) pursuant to the late payment legislation.

If accounts are not settled or WIZZOO Limited have not been contacted regarding the delay, access to the related website may be denied and web pages removed, we will then pass such cases to the Small Claims Court to pursue payment, non payment can result in county court judgements (ccj's) being added to the Clients credit rating.

The Client will be consulted regarding the web site's monthly bandwidth / transfer limit before any work is carried out. In this way the Client is able to choose which hosting scheme they deem suitable for the web design project. Each of the hosting schemes has a different monthly transfer limit. If a Client's monthly transfer limit for their web site is exceeded, WIZZOO Limited reserve the right to charge extra costs and the Client will be invoiced for these extra charges accordingly.

Complaints Procedure

A) Informal procedure:

Anyone who experiences a problem with their web service provided by WIZZOO Limited should raise the matter directly by sending an email to info@wizzoo.com giving sufficient information to locate the material (such as a URL) and clearly outlining the grounds for complaint.

WIZZOO Limited will approach the individual responsible for the material in question with a view to resolving the matter to the satisfaction of the complainant.

B) Formal complaints procedure:

The formal complaints procedure should only be used where the complainant feels that the nature of the complaint is too serious to be dealt with informally, or where a satisfactory conclusion has not been reached after following the informal procedure.

A formal complaint should be made in writing to WIZZOO Limited, who will acknowledge receipt and ensure that the matter is looked into as soon as possible.

An initial response to any complaint can be expected within seven days of its receipt; a full and considered response to the complaint should be completed within 30 days and any subsequent remedy implemented with the minimum of delay.

Liability

WIZZOO Limited hereby excludes itself, its Employees and or Agents from: - all and any liability for loss or damage caused by any inaccuracy; omission; delay or error, whether the result of negligence or other cause in the production of the web site; All and any liability for loss or damage to Clients artwork/photos, supplied for the site, immaterial whether the loss or damage results from negligence or otherwise.

Intellectual Copyright

WIZZOO Limited will retain the copyright of any material, including the source code, created for the Client by WIZZOO Limited.

Site Visits, Travel Time and Expenses

Travelling time to and from customer premises is not generally included in our estimate. WIZZOO Limited reserves the right to make a charge for Client site visits and travelling time at our normal consultancy rates. Likewise, WIZZOO Limited reserve the right to charge for travelling expenses based on 45p per mile. There will be no charges for travelling time or expenses incurred before you give your approval for work to commence.

Electronic Commerce Laws

The Client agrees that the Client is solely responsible for complying with such laws, taxes and tariffs, and will hold harmless, protect, and defend WIZZOO Limited and its subcontractors from any claim, suit, penalty, tax or tariff arising from the Client's exercise of Internet electronic commerce.

Search Engine Optimisation, Submission & Internet Marketing

Appropriate to the services agreed, the Client authorises WIZZOO Limited to submit the Client's web site to internet search engines.

Search Engine Optimisation work is governed by many factors which are outside the direct control of WIZZOO Limited and indeed, any other such company. WIZZOO Limited makes no guarantees to the position of the Client's website in the search engine rankings as a result of search engine optimisation, submission and internet marketing activities carried out by WIZZOO Limited or appropriate sub-contractors.

WIZZOO Limited will guarantee an "improvement" in a Client's website organic search engine results based on an established and agreed baseline.

Web site search engine submissions and ranking reports will be performed at least on a monthly basis, or as agreed by both parties.

Web Design Project Copyright

Rights to clipart, photos, graphics, source code, work-up files and computer programs that are not specifically requested and designed under work for hire are not transferred to the Client, and remain the property of their respective owners. WIZZOO Limited and its subcontractors retain the right to display graphics and other web design elements as examples of their work in their respective portfolios.

Legal Notice

WIZZOO Limited does not warrant that the functions contained in the web design project will be uninterrupted or error-free. The entire risk as to the quality and performance of the web design project is with the Client. In no event will WIZZOO Limited be liable to the Client or any third party for any damages, including, but not limited to service interruptions caused by Acts of God or any other circumstances beyond our control, any lost profits, lost savings or other incidental, consequential or special damages arising out of the operation of or inability to operate this web design project, failure of any service provider, of any telecommunications carrier, of the Internet backbone, of any Internet servers, your or site visitor's computer or Internet software, even if WIZZOO Limited has been advised of the possibility of such damages.

Confidentiality & Non-Disclosure

WIZZOO Limited, its employees and subcontractors agree that, except as directed by the Client, it will not at any time during or after the term of this agreement disclose any confidential information to any person whatsoever.

Amendment

This agreement may be modified or amended if the amendment is made in writing and is signed by both parties.

WIZZOO Limited reserves the right to alter (increase or decrease) all fees for services at any time, but must inform the Client of any such changes.

Severability

If any provision of this agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed written, construed, and enforced as so limited.

Waiver of Contractual Right

The failure of either party to enforce any provision of this agreement shall not be construed as a waiver of limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this agreement.

Governing Law

This agreement shall be governed by and interpreted and enforced in accordance with the laws of the United Kingdom applicable therein without reference to rules governing choice of laws. You irrevocably consent to the jurisdiction of such courts.

The undersigned hereby agree to the terms, conditions and stipulations of this agreement on behalf of his or her organization or business.

This Agreement must be read in conjunction with the "Internet Services Fair Usage Policy" attached to this contract and together constitutes the entire understanding of the parties. Any changes or modifications thereto must be in writing and signed by both parties.

Signed for and on behalf of WIZZOO Limited

_____ Date _____

Name in block letters _____

Signed for and on behalf of [COMPANY NAME]

_____ Date _____

Name in block letters _____

Internet Services Fair Usage Policy

This document sets out the level of conduct which is acceptable between WIZZOO Limited and its Clients when using WIZZOO Limited's Internet Services.

We may from time to time change this fair usage policy to keep it up-to-date with Internet Access Services which WIZZOO Limited provides.

This fair usage policy is in addition to WIZZOO Limited's standard Website Design and Service Agreement

You will use all reasonable endeavours to ensure that the services provided by WIZZOO Limited are used or include content that conforms to the laws of the this country and will not knowingly permit any illegal use or such use that will bring WIZZOO Limited into disrepute.

You must not, nor must any other person, use the services: to send or receive any material which is offensive, abusive, indecent, obscene or menacing; or in breach of confidence, copyright, privacy or any other rights; to cause annoyance, inconvenience or needless anxiety; or in breach of any provisions as contained within this Contract; or other than in conformance with the acceptable use policies of any connected networks and the Internet standards.

WIZZOO Limited may discontinue services if after due warning the Client continues to permit such illegal or disreputable use. If WIZZOO Limited suspends service for contravention of the above conditions of this clause, WIZZOO Limited can and will refuse to restore services until it receives an acceptable assurance from the Client that there will be no further contravention.

You represent, undertake and warrant to us that you will use the web server space allocated to you only for lawful purposes. In particular, you represent, warrant and undertake to us that you will not use the web server in any manner which infringes any law or regulation or which infringes the rights of any third party, nor will you authorise or permit any other person to do so.

You will not post, link to or transmit:

- any material which is unlawful, threatening, abusive, malicious, defamatory, obscene, pornographic, blasphemous, profane or otherwise objectionable in any way;
- any material containing a virus or other hostile computer program;
- any material which constitutes, or encourages the commission of, a criminal offence or which infringes any patent, trade mark, design right, copyright or any other intellectual property right or similar rights of any person which may subsist under the laws of any jurisdiction.

Your web space should never exceed the amount allocated as per your service description. If this is the case you will be asked to reduce the amount accordingly to remain in limits. Failure to do this will result in your website being suspended and / or removed.

You shall keep secure any identification, password and other confidential information relating to your account and shall notify us immediately of any known or suspected unauthorised use of your account or breach of security, including loss, theft or unauthorised disclosure of your password or other security information.

You shall observe the procedures which we may from time to time prescribe and shall make no use of the server which is detrimental to our other customers.

You shall procure that all mail is sent in accordance with applicable legislation (including data protection legislation) and a secure manner.

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In the case of an individual Client, you warrant that you are at least 18 years of age and if the Client is a company, you warrant that the services will not be used by anyone under the age of 18 years without adult supervision.

Any access to other networks connected to WIZZOO Limited must comply with the rules appropriate for those other networks.

While we will use every reasonable endeavour to ensure the integrity and security of the web and e-mail servers, we do not guarantee that the servers will be free from unauthorised users or hackers and we shall be under no liability for non-receipt or misrouting of e-mail or for any other failure of e-mail / other services.

You are required to check your e-mail mailbox accounts at least once every 30 days for account notification e-mails. Failure to do so may result in suspension of service.

POP3 email accounts should never exceed 50MB of space. Accounts that exceed this amount may be deleted by without notification to the customer.

Microsoft Exchange e-mail accounts should not exceed 2GB of space, other than where the Client has agreed and paid for in advance, additional storage space. Accounts that exceed this amount may be deleted without notification to the customer.

Any e-mails which have been received but not downloaded from the WIZZOO Limited servers after 90 days of delivery, may be deleted without notification to the customer.

WIZZOO Limited, at its own discretion may change your username, password and e-mail address and notify you accordingly.

If WIZZOO Limited is approached by a legal body with a copyright infringement notice, we may be required by law to release customer information.

WIZZOO Limited reserves the right to terminate any services where illegal content is found to be transferred by our Internet Services.

WIZZOO Limited monitors customer usage on a monthly basis. If your usage continues to exceed the Fair Usage Policy by an excessive amount, we will ask you to move to a higher package or ask you to find an alternative service provider.

WIZZOO Limited recommend that Anti-Virus software is installed on your computer and / or network.

WIZZOO Limited reserve the right to suspend or terminate an account that has not adhered to the guidelines set out in this policy or to the WIZZOO Limited Website Design & Service Agreement.